

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

MAXIMO MARTINEZ, #1795707,	§	
Plaintiff,	§	
	§	
v.	§	3:15-CV-3926-D
	§	
WILLIAM STEPHENS, et al.,	§	
Defendants.	§	

ORDER

After making an independent review of the pleadings, files, and records in this case, and the findings, conclusions, and recommendation of the magistrate judge, the court concludes that the findings and conclusions are correct. It is therefore ordered that the findings, conclusions, and recommendation of the magistrate judge are adopted.

Accordingly, it is ordered that plaintiff's medical care claims against defendant Stephens are dismissed without prejudice due to improper venue. *See* 28 U.S.C. § 1406(a). The clerk is directed to mail to plaintiff a blank prisoner's civil rights complaint form along with a copy of the complaint he originally filed in this case.


Plaintiff's claims against the state judge and his former defense counsel are summarily dismissed with prejudice as frivolous. *See* 28 U.S.C. § 1915(e)(2)(B); 28 U.S.C. § 1915A(b). This dismissal will count as a "strike" or "prior occasion" within the meaning of 28 U.S.C. § 1915(g).

The court prospectively certifies that any appeal of this action would not be taken in good faith. *See* 28 U.S.C. § 1915(a)(3); Fed. R. App. P. 24(a)(3). In support of this finding, the court adopts and incorporates by reference the magistrate judge's findings, conclusions, and recommendation. *See Baugh v. Taylor*, 117 F.3d 197, 202 n.21 (5th Cir. 1997). Based on the findings and recommendation, the court finds that any appeal of this action would present no legal

point of arguable merit and would, therefore, be frivolous. *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983). If plaintiff appeals, he may challenge this certification by filing a separate motion to proceed *in forma pauperis* on appeal with the Clerk of the Court, United States Court of Appeals for the Fifth Circuit. *See Baugh*, 117 F.3d at 202; Fed. R. App. P. 24(a)(5).

SO ORDERED.

February 25, 2016.


SIDNEY A. FITZWATER
UNITED STATES DISTRICT JUDGE